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ABSTRACT

This paper traces the development of school reform pressures in Kansas from the implementation of the foundation program in 1965 to the passage of substitute Senate Bill 92 during the 1973 legislative session. Bill 92 is designed to produce equalization of school district expenditures and tax levies by a formula based on the concept of funding the current budget of the 310 school districts in Kansas at the level of the median district in three categories of school districts based upon total K-12 enrollment of the district. The bill provides for approximately 50 percent State funding of K-12 current operating expenses and incorporates the power equalizing principle for those districts that wish to make expenditures greater or less than the median school district in its size class. The main features of SB-92 described in this paper include provisions for raising State and local school revenue; local tax relief; the principal State aid program; and separate State aid programs for driver education, vocational education, and special education. The document also considers the effect of the legislation on selected school districts and examines its legal implications. (Author/DN)

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ANALYSIS OF A STATE SCHOOL FINANCE REFORM LEGISLATIVE PROPOSAL IN KANSAS

S. B. 92, Enacted by the 1973 Session
of the
Kansas Legislature

Prepared by

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November, 1973

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ANALYSIS OF A STATE SCHOOL FINANCE REFORM
LEGISLATIVE PROPOSAL IN KANSAS

I. Background. The origin of the demand for school finance reform in Kansas may be traced to the adoption of the School Finance Foundation Plan in 1965. Prior to 1965, Kansas had a wide variety of separate categorical aid plans, totalling at one time, 17 different formulas for different purposes. In the 1965 session of the Kansas Legislature, under the leadership of Governor William Avery, most of these plans were consolidated into the foundation plan. The foundation plan produced a significant increase in the level of state aid for public elementary and secondary schools, and the new formula was slightly more equitable than the separate categorical aids. But there were many political compromises made in the foundation plan formula because of the fact that the legislature had not been reapportioned on the basis of Baker v. Carr, and the low wealth districts were under-represented in comparison with the high wealth districts. This was also prior to school district unification, and the smaller school districts were far more numerous than the large ones, and were more likely to fall into the wealthy district classification. Each of the 105 counties, regardless of population, had one representative in the House of Representatives, and an additional 20 representatives were distributed among the larger counties. Since most of the

wealthy districts, in terms of assessed valuation per pupil, were in the smaller counties, it was necessary to produce a distribution formula which was acceptable to a majority of the counties. The result of the compromises made in 1965 was a grossly inequitable school finance system.

The future of school finance reform was not advanced by the defeat of Governor Avery in the 1966 election, which cast a pall over the legislators who otherwise would have advocated further consideration of formula reform. Some political anylsts attributed Governor Avery's defeat to the increase of the sales tax from 2 per cent to 3 per cent and the enactment of tax withholding on the state income tax. The latter act uncovered a very large number of taxpayers who had apparently evaded the income tax previously. However, there were two other events which contributed to Governor Avery's defeat. The 1963 session of the legislature, prior to Avery's administration, had enacted a statewide reassessment of local property valuations. The first implementation of this reassessment went into effect in 1966 in some counties, and Governor Avery was blamed for the higher taxes which generally resulted in the reassessed counties. Of probably greater significance was the fact that in 1965 and 1966, almost 2,000 school districts were eliminated as a result of the school district reorganization act enacted also in 1963. Although Avery was not governor at the time of the enactment of the school district reorganization act, it undoubtedly played a significant role in reducing the number of votes which he received in normally Republican counties.

Although there was little legislative activity in 1966, 1967 and 1968, there was a considerable amount of groundwork laid for future finance reform. The Kansas Association of School Boards published a series of research bulletins, computer bulletins and committee reports, beginning in 1966, which analyzed the foundation plan and pointed out the weaknesses and inequities of the formula involved.

In November, 1967, the Kansas State Teachers Association (Kansas-NEA) published its Report of a Public School Study, which was made under the supervision of Dr. William P. McLure of the University of Illinois. The McLure Plan was introduced in the 1968 session as S. B. 594 but failed to secure support either by the legislature or by the various education-related organizations in Kansas. The McLure report, however, assisted in illuminating the inequities of the 1965 foundation plan.

The State Board of Education adopted the basic features of the 1967 plan of the Kansas Association of School Boards, with minor modifications.

The Kansas Farm Bureau played an active role in trying to develop a new school finance proposal. The basic objective of the Farm Bureau was to secure a shift away from the property tax by means of a distribution formula which placed greater emphasis upon the taxable income of the school district. The Farm Bureau also adopted the guarantee plan advanced by the Kansas Association of School Boards, based upon school expenditures related to size of

district (in terms of pupil enrollment). In defining local effort, however, the Farm Bureau relied upon the index formula in the 1969 Supplemental Aid Law, which is described more fully below. Under the Farm Bureau Index, taxable income and assessed valuation received equal weighting in arriving at the determination of local effort. The Farm Bureau contributed a number of alternative plans for consideration, particularly in 1970 and 1971, and was effective in dramatizing the need for property tax relief.

In 1968, Governor Robert Docking appointed a Governor's Committee on Education, chaired by Clyde M. Reed, Editor of the Parsons SUN, and composed of 12 members representative of a variety of interests in public education in Kansas. The report of the committee was published in November, 1968, but Governor Docking failed to convert any of the recommendations of the committee into legislative recommendations during the 1969 session or thereafter.

In 1970, the Legislature evinced considerable interest in increasing state support to elementary and secondary schools, but leaders reported that they would be extremely reluctant to add money into the thoroughly discredited foundation plan. The Kansas Association of School Boards submitted a new formula, which was known as the Supplemental State Aid Plan. The basic entitlement for each school district was established at $71.70 per student, plus $1,240 per certificated employee multiplied times an index based upon the adjusted assessed valuation of the school district. The following index was utilized:

ADJUSTED VALUATION PER PUPIL	INDEX
Less than $4,000.....	.50
4,000 to 4,999.....	.48
5,000 to 5,999.....	.46
6,000 to 6,999.....	.44
7,000 to 7,999.....	.42
8,000 to 8,999.....	.40
9,000 to 9,999.....	.38
10,000 to 10,999.....	.36
11,000 to 11,999.....	.34
12,000 to 12,999.....	.32
13,000 to 13,999.....	.30
14,000 to 14,999.....	.28
15,000 to 15,999.....	.26
16,000 to 16,999.....	.24
17,000 to 17,999.....	.22
18,000 and over.....	.20

The plan provided additional aid in the amount of $26,000,000 for the 1970-71 school year only, and $1,000,000 was added to the pupil transportation distribution. The supplemental aid plan was vetoed by Governor Robert Docking, but the legislature overrode his veto by a very close margin.

In 1971, the legislature made the Supplemental Aid Law a permanent law and Governor Docking signed the bill without objection.

Throughout 1970 and 1971 there was extensive discussion of school finance by most of the education-related organizations in the state. By this time there was general acceptance of the idea that the basic entitlement should be based upon the expenditures of the school district in relation to district enrollment. The idea of using expenditures for the previous year as the basis for the entitlement was shifted, however, to the concept of using the adopted budget per pupil of the current year. This change was introduced in order to keep the entitlement up to date and provide a means for keeping pace with inflation.

During this period of time the Kansas Farm Bureau and the Kansas Association of School Boards explored a number of ways in which school district income could be considered in the distribution formula. KASB supported the idea of considering the income level of the school district, but only if the districts could realize revenue from the state income tax. The Farm Bureau favored the use of an index such as that employed in the State Supplemental Aid Plan, with a 50/50 weighting between assessed valuation and taxable income. In 1970, KASB proposed the plan which was finally adopted. In the KASB Finance Committee Report of 1970, it was proposed that a percentage of the state income tax be returned to the school district in which the individual taxpayer resided as a revenue source, and that the amount derived from this income tax revenue be deducted by the school district as local effort, along with a 15 mill property tax deduction. The applications of this plan called for distributing all of the state income tax on individual returns back to the school district of residence. This legislative position was formally ratified by the KASB Delegate Assembly on January 19, 1971.

In 1970 the Legislature created a Special Joint Committee on School Finance, consisting of five senators and five representatives. The Committee held numerous hearings during 1970 and 1971 and amassed a mountain of data through the Legislative Research Department, about the proposals made by the various organizations interested

in school finance reform. The Committee introduced a bill of its own in the 1972 session (S. B. 716), but because of the unwillingness of the legislative leadership to discuss school finance in an election year, the measure was never reported out of committee.

In the 1973 session, the Senate Education Committee introduced S. B. 92. During its study of the bill, the committee made a number of changes, and decided to draft an entirely new bill, which eventually was passed, under the designation of Substitute Senate Bill 92. Sub. S. B. 92 differed from the final law in only one significant aspect. Under the Senate version of the bill, the local effort rate was set at 1.5 per cent of adjusted assessed valuation plus taxable income. However, the Senate version permitted local school districts, with voter approval, to levy a local income tax, as a percentage of the state income tax. But whether or not the district made the local income tax levy, the deduction for local effort was to include the district's taxable income. This was unacceptable to the House of Representatives, and the House Education Committee amended the bill to remove the local income tax levy, and provided for return of 10 per cent of the state income tax to the school district where the individual taxpayer resided. The bill eventually wound up in Conference Committee, where the various differences were resolved, and the measure was signed by the Governor.

Substitute Senate Bill 92 was supported by the Kansas Association of School Boards, the Kansas Congress of Parents and Teachers,

the Kansas Association of School Administrators and Kansas-NEA. Indeed, the presentation to the House Education Committee was made by one spokesman, representing all four organizations. This common front in support of S. B. 92 came as a considerable suprise to the House Education Committee, and undoubtedly contributed greatly to the success of the bill.

Governor Robert B. Docking also submitted a school finance proposal in 1973, essentially a revision of the State Supplemental Aid law which he had vetoed in 1970. The bill received no support and was never seriously considered.

II. Description of Substitute Senate Bill 92. Substitute Senate Bill 92 is designed to produce equalization of school district expenditures and tax levies by a formula based upon the concept of funding the current budget of the 310 school districts in the state at the level of the median district in three categories of school districts based upon total K-12 enrollment of the district. The bill also incorporates the power equalizing principle for those districts which wish to make expenditures which are greater or less than the median expenditure for other school districts of the same class. It provides for approximately 50 percent state funding of elementary and secondary school current operating expenditures. State fiscal control is exercised through a budget control, which may be exceeded in any year, by a vote of the electors of the school district, to a limit of not to exceed 115 per cent per pupil.

RESOURCES AND BUDGET

I. Provisions for Raising State School Revenue

Historically, the state appropriation for elementary and secondary schools has come from the state general fund. Under the provisions of the 1973 school district equalization act, this policy has been changed to some degree. The financing of the state's share of the new finance program is shown in Table 1.

TABLE 1. STATE FUNDING OF SUB. S. B. 92

Source	Amount
State General Fund Appropriation	$170,996,096
State Annual School Fund	1,600,000
Fines	2,500,000
School Share of Local Ad Valorem Tax Reduction Fund	11,600,000
Total	$186,696,096

State General Fund. The appropriation of $171,000,000 from the State General Fund represents an increase of approximately 64 per cent from the 1972-73 level of $105,100,000 for general and transportation aid. The state sales tax and the state net income tax are the principal general fund revenue sources in Kansas.

State Annual School Fund. This fund is made up of the interest from the state permanent school fund.

Fines. Prior to 1973, any fine levied under the penal laws of the State of Kansas was deposited in the county school fund of the county in which the fine was exacted, and the amount of such fund was distributed to all of the school districts in that county. The amount derived by each school district from the county school fund was deducted from general state aid due to the school district under the foundation plan. Under the school district equalization act, all such state fines will be forwarded to

the state treasurer and deposited in the state school equalization fund. For most districts, this change will have no effect upon the district's net revenue, because of the deduction of county fines under the old law. However, for those districts which receive no state aid under the new plan, the change in the handling of fines will be a net loss, although it is very minor in nature.

LAVTRF. The local ad valorem tax reduction fund dates back to the enactment of the Kansas sales tax in 1937. Under the provisions of this law, a specified amount was reserved for state purposes, and the "residue" was distributed to the counties under a formula, for the purpose of reducing the ad valorem tax levies for operating purposes of all of the taxing subdivisions within the county, including the county itself, cities, townships, school districts, and special districts. This law was amended later to limit the amount distributed for ad valorem tax reduction purposes to 10 per cent of the sales tax revenue.

Under the equalization act, five and one-half per cent of the total retail sales and compensating tax will be transferred to the state school equalization fund, as one source of revenue for financing the new formula.

a. Earmarked State Taxes.

Under the 1973 equalization act, 10 per cent of the state sales tax will be transferred to the state school equalization fund, and the local ad valorem tax reduction distribution to local school districts will be discontinued.

The equalization act also provides for earmarking of a part of the Kansas net income tax for distribution back to the local school district in which the individual income taxpayer resides. Beginning with the 1973-74 school year, 10 per cent of the tax collected on the income of individual taxpayers will be returned to the school district of residence. Prior to the enactment of the equalization act of 1973, the amount of income in the county was used as a part of the "economic index" for the purpose of arriving at the wealth of the local district, although school districts did not derive any revenue directly from income tax sources. One of the issues involved in Caldwell v. State (the Serrano-type case in Kansas) was the constitutionality of a local effort deduction which included "wealth" factors not directly taxable by the school district. The district court in Caldwell v. State concluded that the use of factors not directly related to revenue production capability was a denial of equal protection of the laws, as guaranteed by the 14th Amendment to the United States Constitution. Because of the strong political interest in considering the income level of a school district in arriving at "local ability" or "local effort," provision was made two years previously requiring the state income tax division to include the taxpayer's school district identification on his Kansas net income tax return. Since all Kansas school districts are K-12 districts, this was relatively easy to implement.

b. Unearmarked State Taxes Proposed to Fund the Education Proposal.

No additional taxes were proposed in connection with the enactment of the school district equalization act. The funds to produce the increased amounts necessary to meet the new formula were derived basically from the following sources: (1) general fund balances (2) federal revenue sharing, and (3) continuation of a temporary provision enacted in 1972 which disallowed the payment of federal taxes in calculating the state income tax on corporations.

c. Percent of Increase of State Support.

Under the equalization act, state school support was increased from about $105 million to $187 million, an increase of approximately 80 per cent. However, this does not include the income tax rebate, which amounts to about $8 million per year. If this is included in calculating state support, the net increase in state support is approximately 88 per cent. Put another way, state support increased from slightly less than 30 per cent of operating expenditures, to approximately 50 per cent of operating expenditures.

II. Provisions for Raising Local School Revenue

A. Local School Taxes for Current Operation

Under Kansas law, school districts are authorized to levy taxes on all tangible property, both real and personal, located

within the school district. The following tax levies are specifically authorized:

General Fund
Social Security Fund
Special Education Fund
Vocational Education Fund
Transportation Fund

1. Tax Bases and Rates for Basic State Program.

There is no statutory requirement of any specific tax rate for qualification under the equalization act. There is a mathematical calculation made to arrive at "local effort, for the purpose of deducting from the basic entitlement of the district." This is defined as 1.5 per cent of the total adjusted assessed valuation of the district, plus the taxable income within the district. The 1.5 per cent calculation is the equivalent of 15 mills; however, school districts are not required to make this as a levy in order to qualify for state funds. The equalization act applies only to the general fund of the school district.

2. Equalized or Unequalized Local Tax Leeway, etc.

-- rate limitations on tax base and provisions for exceeding

There are no specific levy limitations. State control is exercised in terms of a budget control.

-- budget increase limitations and provisions for exceeding

The basic control applies only to the general fund budget of the school district and limits the increase in any given year to an amount equivalent to five per cent per pupil of the preceding year's legal maximum budget. However, because of the wide variations in school expenditures due to levy limitations and budget controls used in the past, the legislature authorized some school districts to increase their budgets by more than five per cent. This authority is tied to the basic enrollment categories used for the purpose of arriving at state support, viz.

Under 400 students

400 to 1,299 students

1,300 students and over

A school district in the enrollment category of under 400 students is permitted to budget and expend for operating expense in any year an amount equal to 115 per cent of its budget per pupil in the preceding year or 105 per cent of the median budget per pupil in the preceding school year of districts within this same enrollment category, whichever is less. Thus if a school district in this enrollment category is substantially below the median, it could budget as much as 115 per cent per pupil in the following year.

Any district may raise its budget for a particular year in an amount not to exceed 115 per cent per pupil by vote of the electors of the district.

In addition to the statutory control of 105 per cent, and the authorization for appeal to the voters, certain provisions are made for administrative appeals to the State Board of Tax Appeals for authority to exceed the budget limitations imposed by statute. In no event may the budget of a district in any year exceed the 115 per cent per pupil limitation.

The administrative appeals may be classified in two subcategories: those available only in 1973, and those which are of a continuing nature.

1973 appeals. In 1973 only, local boards may submit a request for additional budget authority in order (1) to meet the statutory requirements for pupil transportation, (2) to meet the increased costs of existing pupil transportation programs, and (3) to meet the increased costs of existing programs of cooperative special education at a level of financial support equal to that of the 1972-73 school year.

Statutory requirements for pupil transportation. Kansas law requires the transportation of all pupils who reside more than 2½ miles from the school which they attend in the school district of their residence. Therefore, if the budget available to the district under the 105 per cent limitation is inadequate to meet the mandatory transportation costs, the board may appeal for additional budget authority for mandated pupil transportation.

Existing programs of pupil transportation. This appeal complements the above mandated transportation appeal. Since many school districts transport pupils who reside less than 2½ miles from school, increased pupil transportation costs which require an increase in the budget greater than would be available otherwise under the first transportation appeal, may be appealed. The amount available under this appeal is limited to the difference between the amount of state aid that would have been received by the district in the 1972-73 school year had the revised transportation formula been in effect in 1972-73, and the amount budgeted for transportation in 1972-73. A special property tax levy is authorized to produce any amount authorized by this appeal.

Existing cooperative special education arrangements. This appeal is designed to provide an administrative remedy for those special education arrangements which have been made by several school districts banding together to provide special education services. In these cooperative agreements, one school district is designated as the "sponsoring district," and all of the other school districts involved in the special education cooperative are referred to as "cooperating districts." An appeal under this provision requires the endorsement of all of the cooperating districts and the sponsoring district in a particular cooperative special education arrangement. The amount available through this appeal is not entirely clear under the language of the act, and will require administrative interpretation. The appeal speaks both of "increased costs" and the maintenance of a "level of financial support equal to that of the 1972-73 school year." The intent of the language appears to be that of maintaining existing special education programs, when the continuation of the same level of program requires increased costs.

Continuing appeals. Three administrative appeals are provided which are continuing in nature: (1) increased operating expenses due to the construction of new or additional school facilities (2) the costs of mandated special education programs, and (3) the statutory requirements for out-district tuition for vocational education and the requirements of contractual agreements for payments to an area vocational school.

The administrative appeal for the operating costs of new facilities is derived from the similar budget appeal authorized under the 1965 school foundation act.

Minimum budget. No district may budget less than $600 per pupil for operating expenses.

Budget Averaging. In the event that the full budget increase is not utilized by the school district in a particular year, the amount not used may be retained for increasing the district's budget-raising authority in succeeding years. There is no time limit on the number of years during which such budget authority may be retained. There is a limitation, however, that

that in no event may the increase in any specific year exceed 115 per cent of the amount legally budgeted during the preceding school year.

-- dollar increase limitations and provisions for exceeding.

There are no specific dollar increase limitations under the equalization act.

B. Local School Taxes for Capital Outlays and Debt Service

-- rate and debt limitations and provisions for exceeding.

By statute, (not a part of S. B. 92) school districts in Kansas may not issue general obligation bonds in excess of 7 per cent of the assessed valuation of the school district, except through administrative appeal to the State School Fund Commission, which is composed of the Attorney General, Secretary of State, and President of the State Board of Education. The commission may authorize the local school district to submit a proposal to the voters for any amount of indebtedness in excess of the 7 per cent statutory limit. In some instances, authority has been granted to conduct an election where the amount of the indebtedness exceeded 20 per cent of the tax base.

-- voting provisions.

All resident electors are eligible to vote on school bonds, and the proposal must carry by a simple majority of the ballots cast and counted.

-- Special Capital Outlay.

In addition to the authority to issue bonds for capital improvements, Kansas school districts may levy an ad valorem tax for capital outlay purposes. This levy may be made in an amount of not to exceed four mills, for a period of time, not to exceed five years. Funds not expended in a particular year may be accumulated indefinitely. The election provided for the special capital outlay levy is termed a "protest" election. The board of education publishes notice of its intent to make the special capital outlay levy authorized by law. If within 40 days of the notice, a petition is filed by electors equivalent to 10 per cent of the qualified electors in the school district, then an election must be held. At this election, the issue is successful if a simple majority of those electors who vote are in favor of the levy. If no such protest petition is filed within the 40 day period, then the board may proceed with the tax levy at the next regular tax levy period. This provision is in a separate statute, and is not included in S. B. 92.

-- Debt Service.

There is no statutory levy limitation upon debt service. The board is legally obligated to make a

levy sufficient to retire the principal and interest on any outstanding bonds. If the district refuses to make such levy, or fails to do so, the county clerk has a legal duty to make the levy.

C. Provisions for Local Property Tax Administration and State Supervision

Property is assessed in the larger counties by an assessor elected by the people on a partisan ballot. In the smaller counties, the county clerk may also serve as assessor. There is relatively little state supervision of assessment practices. However, a taxpayer may appeal an assessment to the State Property Valuation Department, and may appeal an excessive or illegal tax levy to the State Board of Tax Appeals, and thereafter to the courts.

III. Local Tax Relief Provisions or Effects

There is no direct provision in the equalization act to mandate local tax relief, other than the budget control. During the Legislative Session, the following table was distributed to legislators to show the potential property tax relief effect of the equalization act.

TABLE 2. POTENTIAL PROPERTY TAX RELIEF--Sub. S. B. 92

	(Amount in Millions)	
Local School District Budget Authority, 1972-73	$ 358.7	
Projected Legal Maximum Budgets, 1973-74	383.4	
Increase	24.7	(6.9%)
Increased General Aid	76.0	
Increased Transportation Aid	5.0	
Total	81.0	
10% of Individual Income Tax	8.3	
Additional Aid/Income Tax	89.3	
Increase in Budget	-24.7	
USD's Share of Intangibles Tax and Fines	- 2.5	
USD's Share of LAVTRF	-11.6	
Property Tax Relief from Increased Aid and Income Tax	$ 50.5	

The foregoing estimates are expected to be reasonably accurate for the 1973-74 school year.

IV. The Effect of the Proposal Toward Equalizing the Revenue Raising Ability of School Districts.

The following table demonstrates the effect of the budget control upon equalizing the authority of boards of education to increase their budgets.

TABLE 3. PERCENTAGE OF BUDGET INCREASE AUTHORITY

Percentage of Increase	Number of Districts	
More than 15.0	1	(23.9)*
15.0	69	
14.0--14.99	4	
13.0--13.99	4	
12.0--12.99	6	
11.0--11.99	8	
10.0--10.99	4	
9.0-- 9.99	9	
8.0-- 8.99	6	
7.0-- 7.99	12	
6.0-- 6.99	5	
5.0-- 5.99	182	
Total	310	

*This one district was affected by the minimum budget of $600 per pupil.

Another way of looking at the equalization effect of the new law is its effect upon the equalization of tax levies. Table 4 shows in the first column the actual operating levy in 1971-72. In the second column is shown the estimated levy for 1973-74.

Two results may be seen in this table. First, the number of extremely high levies has been reduced sharply. Second, there is a general reduction in the tax levies for the vast majority of school districts.

TABLE 4. EFFECT OF S. B. 92 ON TAX LEVIES

Range in Mills	Actual Levy 1971	Projected Levy 1973
45-49	1	
40-44	4	
35-39	4	
30-34	34	2
25-29	89	21
20-24	127	152
15-19	47	131
10-14	4	4
5- 9		
0- 5		
Total	310	310

DISTRIBUTION

I. Principal State Aid Program

A. Program Calculation (Basis of Entitlement)

1. Guaranteed program level

Each school district would be guaranteed the difference between its legally adopted budget of operating expenses and the amount produced by its local effort.

The term "operating expenses" is defined in the act as "the total expenditures and lawful transfers from the general fund of a district during a school year for all purposes," but there are certain exceptions.

a. All expenditures from any lawfully authorized fund of a district other than its general fund are excepted from the definition of operating expense. These specially authorized funds include the following:

-- Social Security Fund. The tax levy made by the school district for payment of the employer's share of social security is unlimited and is excluded from operating expenses.

-- Vocational Education Fund. School districts are authorized to levy not to exceed two mills for vocational education and this revenue is excluded from the definition of operating expenses.

-- Special Education Fund. School districts are authorized to make a tax levy of not to exceed one and one-half mills for special education and this levy is excluded.

-- Transportation Levy. There is a special levy authorized for 1973 only to pay for certain transportation costs which are mandated by state law. The tax levy may be made only with the approval of the State Board of Tax Appeals for the purpose of continuing any transportation program which existed in the 1972-73 school year, but which cannot be financed under the revised transportation aid formula. This administrative appeal was enacted to provide relief for those school districts which expended more than the median cost for districts with the same population density.

b. Expenditures for summer school, adult education courses and student activities which are reimbursed.

c. Programs financed in part or in whole by federal funds which may be expended although not included in the budget of the district, except for Title 1 of P. L. 874.

d. Payments made to another district under the terms of a transfer of territory order.

The "transfer" provision refers to a new system established by the legislature in this act relative to certain specific school functions. Five new funds were specifically established, and one existing fund (special capital outlay) was continued but with certain restrictions. The six funds which will be subject to special treatment are as follows:

1. Special Education Fund
2. Vocational Education Fund
3. Driver Training Fund
4. Food Service Fund
5. Transportation Fund
6. Special Capital Outlay Fund

All expenditures for the purposes described in each of the six special funds must be made from that fund. That is, all expenditures of the school district for the purposes of driver training must be made from the driver training fund. However, money may be budgeted in the general fund for any of the six special purposes, but the money must be transferred to the appropriate special fund before it is expended. The objective of this device is to provide a more precise accounting of expenditures for these particular programs. During the year in which the transfer is

made, the amount of the transfer becomes a part of the operating expenses of the school district. Expenditures from the six special funds is excluded from the definition of operating expenses.

The amount of the guarantee per pupil is arrived at in the first year by reference to the following table:

TABLE 5. GUARANTEE PER PUPIL

Enrollment of the District	Budget per pupil	Adjustment
Under 400	$936	None
400 to 1,299	936	Minus $.23111 (E-400)
1,300 and over	728	None

This table was derived by arranging all of the school districts in the state on a graph with the horizontal scale representing district enrollment categories and the vertical scale representing per pupil budgets. The medians of the several enrollment categories were connected by a line of best fit, and the above table was derived. The maximum enrollment for variation was set at 1,300 pupils enrolled in the district because of the fact that the line of best fit appeared to vary only slightly for districts above

this enrollment. The "Under 400" category is based upon the fact that this figure was established in 1963, in the school district unification act as the minimum enrollment for creation of a unified district. (NOTE: an exception to the minimum enrollment was allowed where there was substantial sparsity of population, and there are a number of districts with less than 400 enrollment. However, the legislature is unwilling to subsidize with state aid the higher level of expenditure found in these very small districts.) The adjustment provided in the 400 to 1,299 enrollment category is for the purpose of providing a gradual adjustment from the $936 guarantee per pupil in the small district category to the $728 per pupil guarantee in the large district category. Thus a district which dropped below 1,300 students would not experience a sharp increase in guarantee per pupil. Correspondingly a district which increased from 400 to 401 pupils would not suffer a sharp drop in guarantee per pupil.

Although the guarantee schedule is legislated for the first year, it will be calculated by the State Department of Education thereafter, based upon the budgets adopted for the current school year. A similar method has been employed since 1965 for the calculation of the pupil transportation aid guarantee with satisfactory results.

The basic entitlement under the 1965 Foundation Plan was based upon the training and experience of the teachers of the particular school district, called the "Criteria of Quality." A factor of one was assigned for each 30 semester hours of college credit, (with a maximum of 210 hours), and a factor of one for each year of experience (to a maximum of 15 years) multiplied times a constant of .2. Theoretically the maximum factor value would be 7 for training and 3 for experience, or a total of 10. In actual experience, the range was relatively small. In a research study published by the Kansas Association of School Boards in 1968, based upon the 1967-68 distribution, it was shown that 63 per cent of the teachers were employed in school districts with a factor falling within the range of 6.25 to 6.99; 81 per cent of the teachers were employed in districts falling within the range of 6.00 to 7.24; and 98 per cent of the teachers were employed in districts falling within the range of 5.50 to 7.49.

The factor obtained in the Criteria of Quality was multiplied times the number of teachers employed in the school district times a fixed multiplier of $760 per teacher. The effect of the fixed multiplier was to reward a school district with an additional entitlement

in the amount of $760 for each teacher with a master's degree, over the amount allotted for each teacher with a bachelor's degree. However, at the time of the enactment of the original foundation plan in 1965, no school district in the state recognized a difference in its salary schedule of $760 between the bachelor's degree and the master's degree. The effect of the multiplier was to create pressure to bring about a greater dollar disparity in the training phase of salary schedules, and to create a greater number of columns on the salary schedule for training. Both changes resulted during the period from 1965 to 1973; that is, whereas most school districts had only two or three columns for training on their salary schedules in 1965, by 1973 the districts had seven or more columns on the salary schedule for training. Similarly the spread between the bachelor's column and the master's column tended to widen.

The only practical way to expand the amount of state aid under the foundation plan was to raise the amount of the multiplier from $760 to some larger amount, thus further compounding the pressure on local school boards.

Also, the number of teachers in the state has been declining steadily for a number of years, due to declining enrollment, and state aid under the foundation

plan was dropping sharply in a period of rapid increase in school costs. As a result, the amount falling upon the local property taxpayer was increasing very rapidly.

Under the old foundation plan, the state aid amounted essentially to a flat grant. The same 1968 research report published by KASB showed, for 1967-68, that almost one-third (31 per cent) of school children in Kansas were enrolled in school districts which varied only $10 plus or minus the median foundation aid per pupil; while 92 per cent of school children resided in districts which varied only $50 plus or minus the median foundation aid per pupil. Thus the degree of equalization under the old foundation plan was quite low.

2. The only weighting provided in the equalization act is that established in the calculation of the guarantee by using the enrollment of the district in relation to pupil expenditures. The correlation between these two factors is relatively high.
3. Since the guarantee and the budget control are based on per pupil budgets, the district with increasing enrollment is automatically allotted a higher legal maximum budget and a correspondingly higher level of state aid. Since virtually all school districts in Kansas are involved with declining enrollments, a

formula for adjusting the legal maximum budget was enacted. It was felt that it would be impractical to require school districts to reduce their budgets in direct proportion to enrollment decreases, since a loss of students does not usually allow such a directly proportional budget reduction. The control for districts with declining enrollment permits the district to retain the same legal maximum budget per pupil as in the previous year, unless the enrollment drops more, in percentage, than the amounts authorized by law, as shown in the table below.

TABLE 6. ENROLLMENT DECREASE ADJUSTMENTS TO LEGAL MAXIMUM BUDGETS

Enrollment Range	Allowable Decrease in Per Cent
Under 400	10.0%
400 to 1,299	7.5%
1,300 and over	5.0%

If the enrollment in a district in the current school year has decreased less than the percentage specified above, then the amount which the district may budget may be computed on the basis of the enrollment in the preceding school year. If, however, the enrollment declines

at a greater rate than that allowed in the above table, then the budget must be adjusted downward, based upon the actual, reduced enrollment for the current year. The effect of this control can be catastrophic, since the loss of one student more than the allowed number can produce a very great reduction in budget authority.

4. There are no provisions in the equalization act for special programs such as compensatory education, education for the handicapped, capital outlay, textbooks or retirement. There are other state financial aid programs for special education, vocational education, driver education, etc. but these were not incorporated in the equalization act.

The pupil transportation formula was changed only slightly in the equalization act. Since 1965, the pupil transportation aid has been determined on the basis of a graph which compares pupil transportation costs per pupil with sparsity of population. The State Department of Education annually prepares the graph, and determines a line of best fit between the medians of the various sparsity categories. Each district received 70 per cent of the median transportation cost per pupil for its sparsity category or 70 per cent of its actual cost of pupil transportation, whichever was

the lesser amount, with a minimum of $32 per pupil unless the actual cost of the district was less than $32 per pupil per year in which case the district received its actual cost. In the equalization act, these limitations were changed to 100 per cent of the formula cost, or 100 per cent of the actual pupil transportation costs of the district, whichever is lower.

5. There are no local incentive provisions in the equalization act.

B. Funding Plan for Principal State Aid Program

1. State and local shares (formulas for calculation)

In arriving at its state aid under the equalization act, each school district begins with its legal maximum budget, which is determined by the board of education, under the limitations of the budget control. From this legal maximum budget is subtracted the "local effort," which is defined as the sum of (1) the product of a district's local effort rate and the district wealth, and (2) an amount equal to the federal impact aid under P. L. 874, and (3) the amount of the county school foundation fund, and (4) the amount of intangible tax to the credit of the district on the tax rolls of the current year.

-- Local Effort. The district's local effort is calculated on a power equalizing basis, from the standard budget per pupil allowed in the table below.

TABLE 7. PER PUPIL BUDGET BASE FOR POWER EQUALIZING

Enrollment of the District	Allowable Budget Per Pupil
Under 400	936
400 to 1,299	936 Minus $.23111 (E-400)
1,300 and over	728

If the district's budget per pupil is the same as the amount allowed under the above table, then the school district's effort rate is 1.5 per cent times the adjusted assessed valuation plus the taxable income of the district under the Kansas net income tax law. The assessed valuation is "adjusted" by applying a sales ratio formula calculated annually by the State Property Valuation Department.

If, however, the district's budget is greater or lesser than the allowable amount per pupil, then the local effort percentage is adjusted upward or downward from the standard rate of 1.5 per cent proportional

to the amount which the budget per pupil exceeds or is less than the standard budget per pupil. Thus, if a school district in the smallest enrollment category wishes to spend $1,872 per pupil, which is twice its standard allowable budget per pupil, then its deduction for local effort is 3.0 per cent or twice the standard local effort rate of 1.5 per cent.

TABLE 8. LOCAL EFFORT RATE REQUIRED TO QUALIFY FOR EQUALIZATION AID

Power Equalizing Requirement/in %	Number of Districts
3.3--3.39	1
3.2--3.29	
3.1--3.19	1
3.0--3.09	1
2.9--2.99	2
2.8--2.89	
2.7--2.79	1
2.6--2.69	2
2.5--2.59	2
2.4--2.49	3
2.3--2.39	2
2.2--2.29	2
2.1--2.19	9
2.0--2.09	7
1.9--1.99	18
1.8--1.89	17
1.7--1.79	21
1.6--1.69	31
1.5--1.59	47
1.4--1.49	82
1.3--1.39	37
1.2--1.29	12
1.1--1.19	9
1.0--1.09	2
.9-- .99	1
Total	310

Table 8 shows the effect of the power equalizing feature on the local effort rate for 1973-74. The highest local effort rate required by power equalizing is 3.38 per cent; the lowest rate is .99 per cent.

The provisions of the old foundation plan for arriving at local effort were very controversial from the outset, and proved to be an important factor in the district court's decision ruling the foundation plan to be unconstitutional.

Under the 1965 foundation plan, local ability or effort was defined in terms of a county "economic index." Each county computed the adjusted assessed valuation and the taxable income of the county, as a percentage of the state total of the two factors. Valuation and income were given equal weight in computation of the index. Each county's "ability" was determined by multiplying its economic index times the amount resulting from a theoretical 10 mill levy on all of the tangible property in the state. The county ability dollar figure was then divided by the total number of certificated employees in the county to arrive at "county ability per employee." The latter figure was then multiplied by the number of certificated employees of each district in the county to determine the district's portion of county ability. This amount was then deducted from the basic entitlement.

Inclusion of the income factor resulted in less state aid for districts in counties where the income ratio was higher than the valuation ratio, by comparison with a formula where the distribution is made solely on adjusted valuation. On the opposite end, inclusion of the income factor for those counties with a lower income factor resulted in increased state aid. As a result counties were either rewarded or penalized by the amount of income in the county, although the school districts in the county did not realize any revenue from the income tax. If a county was penalized by the inclusion of income, the property taxpayers in the county had to make up the loss in higher property taxes. Conversely, if the county was rewarded because of low income, the property taxpayers, not the low income taxpayer, benefited from the increased state aid.

The same kind of inequity resulted from applying the index at the county level. Only one school district in Kansas is coterminous with county boundaries. Some school districts have territory in as many as five separate counties, and more than half of the school districts have territory in two or more counties. Since the economic index was applied at the county level, each school district within a county was treated

as having the same degree of "local ability" a circumstance easily disproved in practice. For example, De Soto, the school district which was directly involved in the Serrano type case in Kansas, is a very low valuation and low income district in the same county with Shawnee Mission a very high income area. The economic index resulted in a double penalty for De Soto. The county in which De Soto is located received a state aid penalty because of the high income in Shawnee Mission and De Soto received a state aid penalty because it was lower than the average school district within Johnson County in terms of both assessed valuation and income. As a net result of the double penalty, De Soto received $121 per pupil in 1967-68, compared with a state average distribution of $168 per pupil. Yet De Soto had a property tax base which was near to the lowest in the state in terms of assessed valuation per pupil.

2. Provisions for transition

There are no transition provisions in the equalization act.

3. Save-harmless or minimum participation guarantees

There are no such provisions in the act.

4. State budget review and approval provisions

There are no provisions for state budget review and approval. Those districts which wish to take

advantage of one of the administrative appeal provisions must justify its application before the State Board of Tax Appeals, but this does not authorize the State Board of Tax Appeals to review any other part of the budget except for that part which is under appeal.

C. Specific Non-revenue Requirements for Local Participation

There are no provisions of this type in the act.

II. State Aid Distributed Separately from Principal State Aid Program

Driver Education. Each school district receives a state grant for driver education (Safety Fund) based upon the percentage of its students in ratio to the total number of driver education students in the state. The state funds are derived from license fees and amounts to some $900,000 per year. Because of the increasing number of driver education students, the state distribution has decreased steadily for a number of years, and in the current year amounts to approximately $23 per pupil.

Vocational Aid. There are three categories of vocational aid: (1) aid to area vocational schools (2) aid to unified school districts and (3) aid to community junior colleges. Under the first category, $1,837,500 was distributed to the area

vocational schools in 1972-73 under a complex formula written into the state plan. The amount to unified school districts in 1972-73 was $319,900 and the junior college distribution was $90,099. The latter two formulas are also very complex in nature, and are included as a part of the state plan.

Special Education. There are four categorical state aid plans for special education. In fiscal 1974, these programs were budgeted at the following level:

Developmentally Disabled	$3,599,175
Exceptional Children	2,258,000
Homebound	175,000
Deaf/Blind	87,500
Total	$6,119,675

Programs for Developmentally Disabled Children. There are four subcategories of aid under this grouping: educable mentally retarded, trainable mentally retarded, learning disabilities, and multihandicapped.

Under all of these four categories the funding is computed as follows:

$2,500 per school year for each full time class
$100 additional reimbursement for each full-time nonresident pupil to a maximum additional reimbursement of $800 per year.
One-half of actual expenditures for supplies and equipment, not to exceed $25 per year.
Transportation Aid of one-half of actual expenses, but not to exceed $250 per child per school year.

Programs for Exceptional Children. There are 10 subcategories of aid under this grouping: hearing impaired, instructional materials centers, intellectually gifted, local directors of

special education, personal and social adjustment, physically limited, school psychology, school social work, speech correction and visually impaired.

Under all of these 10 programs except for the physically limited category, the funding is computed at $2,000 per year for each teaching unit. The basic reimbursement for physically limited children is based on the employment of staff equivalent to three full time positions. The provisions for nonresident pupils, equipment and supplies, and transportation aid are the same as for the developmentally disabled children.

Programs for Home Bound Children. The basic reimbursement is set at $3,000 per school year for each full-time teaching unit. Part-time teaching is calculated at $2.00 per hour from one to five hours per week. Travel is paid at the rate of 9¢ per mile, but not to exceed $75 per year per child. Supplies and equipment are reimbursed at the same rate as for developmentally disabled children.

Programs for Deaf/Blind Children. Full tuition is paid for those children who are educated outside of the state, plus transportation, where there is inadequate opportunities within the state. Tutorial services and supplies and equipment are individually negotiated. Travel is paid at the rate of 7¢ per mile.

OTHER RELATED PROVISIONS

County School Foundation Fund. Under the 1965 Foundation Plan, each county was required to make a levy equivalent to 10 mills on the adjusted assessed valuation of the "home" county. The funds derived from the county were distributed to all school districts which had some territory within the county. The county fund was first divided by the number of pupils residing within the county, and each school district from some adjoining county which had territory within the "home" county was allotted its share of the county foundation fund according to the number of pupils residing within the "home" county. The balance of the fund was then divided by the number of certificated employees of the school districts assigned to the "home" county, and each district received funds based upon its proportion of certificated employees in the home county. This distribution formula was a compromise between the large districts which preferred a per pupil distribution, and the smaller rural districts with lower pupil/teacher ratios, which preferred a distribution based solely on the number of certificated employees. The funds received from the county foundation fund was not equalized in the state foundation plan, but was simply an additional revenue source to the school districts.

Under S. B. 92, the county foundation levy was reduced to two mills, and the amount derived from the county becomes a

deduction in the state school equalization aid. The distribution formula remains unchanged. The only equalization provided by the county school foundation fund under the new law is the minor amount involved in a few counties in which all of the school districts receive no state equalization aid. Because of this small number of affected districts, there will undoubtedly be some interest in repealing the county school foundation fund entirely in 1974.

P. L. 874 Deduction. The 1965 foundation plan originally provided for deducting 25 per cent of the proceeds of the entitlement of the school district under the so-called "federal impact" provisions of P. L. 874. This deduction was ruled unconstitutional by a federal district court in Kansas in Hergenreter v. State. Congress subsequently legislated a prohibition on the deduction of P. L. 874 funds.

The new legislation calls for deducting all of the entitlement of P. L. 874 funds from the basic state entitlement. The legislature was well aware of the legal risk of the move, but the failure to consider the P. L. 874 funds would have resulted in some school districts having no local property tax levy at all. It was probably the view of the legislature that the political risk to the bill in leaving out P. L. 874 deductions was greater than the legal risk of including the deduction. In any event, the legislature could remove the offensive deduction even within the first year of the plan, should it become absolutely necessary to do so. Following

adjournment of the session, the USOE regional office in Kansas City announced that the new law was in violation of the federal statutes, and that all P. L. 874 funds would be withdrawn from the state. The Congress was then asked to exempt Kansas, and other states with sharply equalized state aid plans, from the federal law prohibiting deduction of P. L. 874 funds, and this exemption was included in the package appropriations bill submitted to President Nixon. Further study of the entire P. L. 874 formula by the Congress is expected in 1974.

III. Effect on Selected School Districts

In arriving at the basic entitlement of a school district, a graph is prepared comparing per pupil budgeted expenditures with the size of the school district in terms of enrollment. The base of the graph is made up of regular enrollment intervals, and the vertical scale is made up of regular intervals representing the per pupil budgets of the school districts. The median budget per pupil of each of the school district enrollment categories is ascertained, and a line of best fit is drawn to connect the medians of all of the enrollment categories. The result is best described as curvilinear, with the highest expenditures per pupil in the smaller districts and a gradual nonlinear reduction until the enrollment category of 1,300 students is reached, beyond which there is little variation in the medians of the enrollment categories. The variations from the medians, both above and below, are far greater with the smaller districts.

The local effort rate is determined by the adjusted assessed valuation and the taxable income of the district. Table 9 shows the distribution of wealth per pupil for all of the 310 school districts in Kansas.

Table 10 shows the application of the new distribution formula to the 10 school districts which have the lowest ability per pupil. Derby, the district with the lowest ability per pupil, is a suburban district near Wichita, heavily affected by the Boeing Company and McConnell Air Force Base, both of

which are nontaxable. The new plan provides a substantial increase in state aid per pupil, and a substantial decrease in the local tax levy. It should be remembered in this context that the new plan provides for the deduction of P. L. 874 aid to federally impacted school districts. If P. L. 874 had not been deducted, the Derby tax levy would have been reduced even further.

Washburn, the second district from the bottom in terms of wealth per pupil is a suburban district near Topeka, affected by Forbes Air Force Base. Its position is very similar to that of Derby. However, Forbes Air Force Base was closed in the fall of 1973 and it is anticipated that the Washburn enrollment will decrease, at least temporarily, by about 40 per cent. Suburban growth, however, should restore the lost enrollment within the next few years. Galena is a very small district in area, located in southeastern Kansas, in what was formerly the center for the mining of coal, lead and zinc. The smelter at Galena is now shut down and there is little taxable wealth in the district. However, the enrollment has not declined as rapidly as the tax base, with the result that Galena's wealth per pupil has declined very steadily for a number of years. Elwood is a very small district on the west bank of the Missouri River, directly opposite St. Joseph, Missouri. There is little taxable wealth in the district, and the high expenditure level

of the district, produced in part by its very small enrollment, combined with the low wealth to produce a high tax levy. Mulvane, Maize, Haysville and Rose Hill are also suburban to Wichita and are basically bedroom communities with low taxable wealth. De Soto is a suburban school district near Shawnee Mission. A naval ordnance plant is located within the boundaries of the school district. The public housing created in connection with the plant attracts a number of families because of its low rental cost, but contributes little to the tax base of the district.

Table 11 shows the 10 districts with the highest wealth per pupil. All of these districts are basically rural in nature, located in southwestern Kansas in the oil and gas area, and with local tax bases further augmented by pipelines and booster stations. It should be pointed out that although all of these school districts lost substantial amounts of non-district revenue in the new plan, the effect of the loss on the estimated local tax rate was not particularly severe.

Table 12 shows the 10 districts which cluster around the median wealth per pupil of $22,360. All except one of these districts realized a net decrease in tax levy, although four of the districts received less under the new plan than under the old plan.

TABLE 9. DISTRIBUTION OF WEALTH PER PUPIL OF THE 310 UNIFIED SCHOOL DISTRICTS

Wealth Per Pupil Range	Number of Districts
110--114,999	1
105--109,999	
100--104,999	
95-- 99,999	
90-- 94,999	2
85-- 89,999	
80-- 84,999	
75-- 79,999	1
70-- 74,999	
65-- 69,999	1
60-- 64,999	1
55-- 59,999	5
50-- 54,999	7
45-- 49,999	11
40-- 44,999	10
35-- 39,999	16
30-- 34,999	21
25-- 29,999	49
20-- 24,999	57
15-- 19,999	83
10-- 14,999	37
5-- 9,999	8
0-- 4,999	
Total	310

* Median=$22,360 per pupil

TABLE 10. EFFECT OF THE EQUALIZATION ACT--ON SELECTED SCHOOL DISTRICTS=LOW ABILITY DISTRICTS

District Name	Enrollment	Wealth Per Pupil	Old Plan Per Pupil	New Plan Per Pupil	Difference Per Pupil	Difference in %	Old Tax* Rate	New Tax* Rate
Derby	5,566	$ 6,633	$322	$469	$147	45.7	33.52	21.65
Washburn	3,299	6,665	334	508	174	52.1	28.25	22.99
Galena	990	8,136	320	501	181	56.6	42.28	20.25
Junction City	6,848	8,359	311	431	120	38.6	19.85	22.05
Elwood	307	8,902	432	680	248	57.4	40.77	20.24
Mulvane	1,614	9,094	342	501	159	46.5	32.52	20.12
Maize	879	9,313	320	549	229	71.6	34.28	17.32
Haysville	3,561	9,931	332	580	248	74.7	46.25	21.79
De Soto	1,860	11,229	288	493	205	71.2	34.21	20.24
Rose Hill	631	10,184	370	584	214	57.8	31.87	17.55

*In Mills

TABLE 11. EFFECT OF THE EQUALIZATION ACT--ON SELECTED SCHOOL DISTRICTS=HIGH ABILITY DISTRICTS

District Name	Enrollment	Wealth Per Pupil	Old Plan Per Pupil	New Plan Per Pupil	Difference Per Pupil	Difference in %	Old Tax* Rate	New Tax* Rate
Moscow	148	$114,725	$1,145	$312	$-833	-72.8	14.10	14.33
Rolla	200	94,087	704	200	-504	-71.5	16.07	15.35
Mullinville	168	91,948	672	181	-491	-73.1	21.03	21.25
Kendall	89	75,167	709	919	-518	-73.1	17.90	20.07
Hugoton	905	67,430	660	178	-482	-73.0	13.89	16.13
Macksville	402	62,540	578	122	-456	-78.9	16.20	19.08
Lakin	576	59.915	602	155	-447	-74.3	15.12	17.70
Deerfield	215	59,775	712	193	-519	-72.9	15.39	20.19
Satanta	495	57,489	500	128	-372	-74.4	16.80	19.02
Lorraine	666	56,813	459	103	-356	-77.6	23.04	23.95

*In Mills

TABLE 12. EFFECT OF THE EQUALIZATION ACT--ON SELECTED SCHOOL DISTRICTS=MIDDLE ABILITY DISTRICTS

District Name	Enrollment	Wealth Per Pupil	Old Plan Per Pupil	New Plan Per Pupil	Difference Per Pupil	Difference in %	Old Tax* Rate	New Tax* Rate
Osborne	709	$22,753	$367	$429	$62	16.9	25.31	20.17
Garnett	1,403	22,720	361	277	-84	-23.3	17.50	18.40
Hill City	847	22,548	461	535	74	16.1	28.25	25.03
Hope	584	22,477	404	483	79	19.5	23.38	20.07
Marysville	1,235	22,389	419	331	-88	-21.0	20.90	20.66
Hoisington	1,068	22,208	382	377	- 5	- 1.3	23.25	20.74
Colby	1,337	22,180	367	373	6	1.6	22.99	22.10
Pratt	1,586	22,134	430	333	-97	-22.5	20.53	21.01
Eskridge	700	22,059	376	411	35	9.3	24.24	18.05
Altoona	468	22,026	391	454	63	16.1	19.05	16.25

*In Mills

Another way of analyzing the effect of the plan is to determine the percentage of the district's operating budget which comes from state support. Table 13 makes two comparisons. The first column shows the distribution of districts in terms of the percentage of the operating budget which comes from the combined equalization aid and the income tax rebate. The second column shows the percentage of the distribution of school districts according to the percentage of the total operating budget which comes from the equalization aid alone.

TABLE 13. PERCENTAGE OF OPERATING BUDGETS DERIVED FROM STATE AID AND FROM STATE AID PLUS INCOME TAX REBATE

Percentage of Operating Budget	State Aid Plus Income Tax Rebate	State Aid Only
96 - 100		
91 - 95		
86 - 90		
81 - 85	2	
76 - 80	2	2
71 - 75	10	2
66 - 70	19	5
61 - 65	24	19
56 - 60	46	22
51 - 55	36	37
46 - 50	29	35
41 - 45	28	28
36 - 40	20	29
31 - 35	17	26
26 - 30	13	17
21 - 25	9	15
16 - 20	13	13
11 - 15	17	10
6 - 10	25	9
0 - 5		1
Total	310	310
	Median-48.2%	Median=39.0%

The above percentages do not include pupil transportation aid, or the other categorical aids which raises the median to slightly over 50 per cent of current operating expenditures.

IV. Legal Implications

The 1965 Kansas School Finance Foundation Act was declated to be violative of the Equal Protection Clause of the 14th Amendment to the United States Constitution, and of a similar provision in the Kansas Constitution in Caldwell v. State, a case which was decided in the District Court of Johnson County in August, 1972. The case was not appealed to the Kansas Supreme Court, and the district court retained jurisdiction of the case with the announced intention of reviewing any legislation which might be enacted by the 1973 session of the Kansas legislature.

Following the enactment of Sub. S. B. 92, a motion was filed in the Johnson County District Court, which, in effect, asked the court to review the 1973 school district equalization act. In a memorandum decision in the summer of 1973, the court found that the new act met the requirements of the United States and Kansas Constitutions.

Notwithstanding the district court's finding that the 1973 school district equalization act is constitutional, there were certain facts not presented to the court which might have produced a different result.

The most important of these omitted facts is the substantial amount of state aid which is not equalized. The pupil transportation aid, area vocational school aid, special

education aid, driver education aid, and state vocational aid are essentially flat grants. The pupil transportation aid in particular, is distributed without regard to the wealth of the school district. Transportation aid is based upon the sparsity of the school district, and each school district with the same degree of density or sparsity receives the same number of dollars per pupil per year in state transportation aid, regardless of wealth. The rationale for the decision not to equalize pupil transportation aid is that transportation is not an educational function, but rather serves as a public convenience. Therefore, according to this line of thought, the state will assume 100 per cent of the fair cost of pupil transportation, fair cost being determined by the median cost of districts with the same degree of sparsity/density of pupil population, as determined from the state graph of pupil transportation cost per pupil compared with pupil density. But there was another factor involved in the decision not to equalize pupil transportation aid in the 1973 act. For the most part, the rural districts were adversely affected by the change from the 1965 foundation plan to the 1973 school district equalization act. By leaving pupil transportation aid out of the equalization principle, the amount of loss to school districts, and the number of school districts receiving no state aid at all was reduced. This decision undoubtedly produced some votes which other-

wise would have been lost. It is certain that the 1974 session of the legislature will be encouraged to bring at least a part of the vocational education aid and the special education aid under the power equalizing principle.

The other feature of the act which might bear some further study as to its constitutionality is the local effort rate. Under the act, local effort is defined as 1.5 per cent times the adjusted assessed valuation plus the taxable income of the district. The 1.5 per cent factor is then equalized, with the high expenditure districts being required to make a greater degree of effort, and the low expenditure districts, a lower degree of effort. The highest degree of local effort requirement in the 1973-74 estimates is 3.38 per cent and the lowest local effort requirement is .99 per cent. However, each of these districts receives the same 10 per cent return on the actual income tax paid by the residents of the school district. On the one hand the highest district is charged approximately three times as much for local effort as the actual amount of income tax revenue, while on the other the lowest district is charged approximately the same amount of local effort as the actual income tax revenue to the district. Since the economic index of the 1965 foundation plan had a similarity disparity, and since this was one of the facts considered by the district court in Caldwell v. State when it found the 1965 act to be unconstitutional, it is conceivable

that a basis is provided for further litigation on this point. The local effort rate actually adopted in the 1973 equalization act was a compromise. The plan advocated by the Kansas Association of School Boards proposed to define local effort as the sum of a 15 mill local effort on ad valorem property and the actual amount of revenue produced by the state income tax distribution to local school districts. The idea of using a percentage factor, rather than a mill levy equivalent, probably was based upon the notion that, in the world of political semantics, the percentage factor was more acceptable than the mill factor, coupled with the additional thought that the effect of combining the two factors with a uniform percentage would result in a slight advantage to the high expenditure districts, which were adversely affected by the new law.

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